

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2004-015711

02/09/2015

HONORABLE JANET E. BARTON

CLERK OF THE COURT

A. Ocanas

Deputy

IN RE THE MATTER OF
GLADESA RENE ANDERSON

GLADESA RENE ANDERSON
14830 N BLACK CANYON HWY
#1118
PHOENIX AZ 85053

AND

BRANDON CHARLES CLUTE

SCOTT L PATTERSON

JUDGE HYATT

ORDER

This Court is in receipt of Petitioner/Mother's Affidavit in Support of Change of Judge, filed on January 21, 2015 and Respondent/Father's Response to Affidavit of Change of Judge, filed on January 28, 2015. The Court now rules as follows.

Pursuant to Rule 42(f)(2)(D), Ariz.R.Civ.P., if a party makes proper service of an affidavit that meets the requirements of A.R.S. § 12-409(A) seeking to change the assigned judge for cause, the matter must be heard by another judge and the issue decided by a preponderance of the evidence. However, before the court sets this matter for an evidentiary hearing to resolve disputed issues on the alleged bias, prejudice, or interest of the assigned judge, the court must first determine whether or not the affidavit as a matter of law states grounds that, if proven, would justify disqualification under A.R.S. § 12-409. *See, e.g., Mervyn's v. Superior Court*, 179 Ariz. 359, 361, 879 P.2d 367, 369 (App. 1994). In *Smith v. Smith*, 115 Ariz. 299, 564 P.2d 1266 (App. 1977), the Arizona Court of Appeals recognized that, "the bias and prejudice necessary to disqualify a judge must arise from an extra-judicial source and not from what the judge has done in his or her participation in the case." *Id.* at 303, 564 P.2d at 1269. *See also United States v. Grinnel Corp.*, 384 U.S. 563, 86 S.Ct. 1698, 16 L.Ed 2d 778 (1966).

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Having reviewed the Petitioner/Mother's Affidavit in Support of Change of Judge, including the exhibits thereto, and Respondent/Father's Response to Mother's Affidavit, the Court finds that no allegations are presented or supported by those documents of bias, prejudice or interest of the assigned judicial officer arising from an extra-judicial source. Rather, everything alleged by Respondent pertains to what the judge has or has not done in her participation in the case. Accordingly, the documents are insufficient as a matter of law to proceed with an evidentiary hearing and/or to justify a change of judge for cause. Therefore,

IT IS ORDERED denying Petitioner/Mother's Affidavit in Support of Change of Judge, filed on January 21, 2015 and reassigning this case to Judge Carey Snyder Hyatt for all further proceedings.

/s/ HON. JANET E. BARTON

Janet E. Barton
Family Court Presiding Judge

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.